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DOWNTOWN CENTER BUSINESS
IMPROVEMENT DISTRICT
MANAGEMENT CORPORATION
(also sued erroneously as Downtown
Center Business Improvement District)

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES – CENTRAL DISTRICT

HILL RHF HOUSING PARTNERS, L.P. a California limited partnership; OLIVE RHF HOUSING PARTNERS, L.P., a California limited partnership,

Petitioners/Plaintiffs,

v.

CITY OF LOS ANGELES; DOWNTOWN CENTER BUSINESS IMPROVEMENT DISTRICT, a special assessment district in the City of Los Angeles; DOWNTOWN CENTER BUSINESS IMPROVEMENT DISTRICT MANAGEMENT CORPORATION, a California nonprofit corporation; and DOES 1 through 10, inclusive,

Respondents/Defendants.

Case No. BS170127
Unlimited Jurisdiction

(Case assigned to Hon. Amy Hogue)

RESPONDENT DOWNTOWN CENTER BUSINESS IMPROVEMENT DISTRICT MANAGEMENT CORPORATION'S RESPONSIVE TRIAL BRIEF

Complaint Filed:	July 3, 2017
Trial Date:	September 19, 2018
Time:	9:30 a.m.
Dept.:	Dept. 86

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I. INTRODUCTION

Petitioners Hill RHF Housing Partners, L.P. and Olive RHF Housing Partners, L.P. (collectively, "Petitioners") sue in traditional mandamus under Code of Civil Procedure section 1085, challenging Respondents' formation of the Downtown Center Business Improvement District ("DCBID" or "District") and levy of its assessment to provide supplemental municipal services for the benefit of the assessed property owners. Petitioners contend the assessments do not satisfy Proposition 218, article XIII D of the California Constitution, and *Silicon Valley Taxpayers Association, Inc. v. Santa Clara County Open Space Authority* (2008) 44 Cal.4th 431 (*Silicon Valley*), and seek dissolution of the DCBID. Petitioners are not entitled to relief.

The DCBID was formed to fund services directly and only to assessed properties in the District. The DCBID funds valuable "safe and clean" services — including sidewalk cleaning, graffiti removal and nighttime patrols— as well as economic development, marketing the District and management of the DCBID. The services are over and above those the City generally provides, and the properties are assessed for the reasonable cost of the services each receives.

Petitioners' scattershot arguments fail for many reasons. First, their challenge is inconsistent with *Dahms v. Downtown Pomona Property & Business Improvement Dist.* (2009) 174 Cal.App.4th 708 (*Dahms*), which upheld a substantially similar business improvement district, and disregards the intent of Streets and Highways Code section 36615.5. Contrary to Petitioners' claims, the Engineer's Report and District Management Plan adequately (1) distinguished special and general benefits, (2) evaluated the benefits to various categories of parcels, and (3) based its apportionment of the assessment in proportion to special benefit received by assessees with solid record support. Accordingly, the DCBID Management Corporation asks this Court to grant judgment to Respondents upholding the formation of DCBID and the levy of its assessment.

II. STATEMENT OF FACTS

A. Business Improvement Districts

A Business Improvement District ("BID") is a means to fund services to a defined area created by petition of assessed property owners under the Property and Business Improvement District Law of 1994 ("BID Law") and article XIII D of the California Constitution. (Cal. Const., art.

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XIII D, § 4; Sts. & Hy. Code, § 36600 et seq.) The BID Law declares "the public interest to promote the economic revitalization and physical maintenance of business districts in order to create jobs, attract new businesses, and prevent the erosion of the business districts." (Sts. & Hy. Code, § 36601, subd. (b).)

BIDs are an important tool to "combat blight, promote economic opportunities, and create cleaner and safer environments." (*Id.*, § 36601, subd. (f).) Thus, BIDs benefit businesses and real property by providing security, sanitation, graffiti removal, and street and sidewalk cleaning and other municipal services supplemental to those normally provided by the City; marketing and economic development; and other services that specially benefit assessed properties or businesses. (*Id.*, § 36606.)

B. The DCBID Assessment

Founded in 1998, the Downtown Center Business Improvement District serves nearly 1,700 property owners in Downtown Los Angeles. (AR00026.)[1] The DCBID was the principle driver of the renaissance of Downtown Los Angeles during those twenty years and instrumental in transforming the area into the vibrant neighborhood it is today. Bounded by the Harbor Freeway to the west, First Street to the north, Main and Hill Streets to the east, and Olympic Boulevard and 9th Street to the south, the Business Improvement District enhances the business environment and quality of life in its 65 square-blocks. (AR00026; AR00039–41.) Over its twenty year existence, the District has responded to hundreds of thousands of calls for safety service, trimmed 1,000 trees annually, cleaned over 470 miles of sidewalks and removed 53,000 bags of trash annually. (AR00264-265.) Petitioners' commercially-zoned property has been within the District boundaries since its inception twenty years ago and, indeed, paid assessments the first fifteen years without protest.

The DCBID mailed petitions to property owners in the District to trigger an election to renew the DCBID beginning January 1, 2018 for a fifth term. (AR00026; AR000261.) Reflecting the District's popularity and deep support, 67.58% of the entire DCBID, representing $4,523,895 of the

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[1] Citations to the administrative record are in the form "AR#####".

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total proposed assessment, petitioned for its renewal. (AR00026.) Following this initial successful petition step, the next step was to conduct a public hearing and vote on extending the DCBID. To do so, the City Council was required to approve an Engineer's Report, a district management plan, and an annual assessment. (AR00160–161.) The DCBID was intended, like its predecessors, to assess District property owners to fund special services including 24/7 safety patrol, street and sidewalk cleaning, trash removal, and business recruitment — services over and above what the City generally provides. (AR00033–34, AR00042–48.) All record owners of property in the DCBID, including Petitioners Hill RHF Housing Partners, L.P. ("Hill L.P."), owner of 255 S. Hill Street ("Angelus Plaza"), and Hill Olive Housing Partners, L.P. ("Olive L.P."), owner of 200 S. Olive Street ("Angelus Plaza North"), were mailed ballots. (AR00293–294.) Ballots were accompanied by the Management District Plan and Engineer's Report. (AR00271.)

C. The Engineer's Report and Management District Plan

Under Proposition 218, assessments must be "supported by a detailed Engineer's Report prepared by a registered professional engineer certified by the State of California." (AR00026.) The City hired engineer Terrance E. Lowell, with over 50 years' assessment engineering experience ("Engineer"), to draft the DCBID Engineer's Report ("Engineer's Report"). (AR00091–151.)

The Engineer's Report details three programs of services DCBID provides: (1) "Clean and Safe Services," which includes "security services for the individual assessed parcels located within the District in the form of patrolling bicycle personnel, nighttime vehicle patrol and downtown ambassadors," (the District's familiar and visible purple-shirted staff who assist residents and visitors alike), as well as sidewalk cleaning, trash collection, graffiti removal, and landscape; (2) "Economic Development/Marketing Services," which include destination marketing, economic development, district stakeholder communications, media relations, etc.; and (3) "Management Services," i.e., management of District's services delivered seven days a week (collectively, the "Services"). (AR00097–101; AR00034.) All of DCBID's Services are "either currently not provided or are above and beyond what the City of Los Angeles provides." (AR00093.) For example, the Safe Team Program "will supplement, not replace, other ongoing police, security and patrol efforts within the District." (AR00097.)

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The Services are "provided only to individually assessed parcels defined as being within the boundaries of the District and provide benefits which are particular and distinct to each of the individually assessed properties within the proposed District." (AR00042.) They "are not provided outside of the District because of the unique nature of these services focusing on the particular needs of each assessed property within the District." (AR00103.) Thus, "[n]one of the surrounding parcels will directly receive any of the PBID activities" (AR00112), and "[i]f there are any public benefits, they are incidental and collateral to providing special benefits to the assessed parcels" (AR00114).

The Engineer's Report recognizes that "each parcel's proportionate special benefit from the District programs is to relate each parcel's building square footage to every other parcel's building square footage, and/or when applicable, land square footage, plus applicable, assessable parking square footage for each parcel." (AR00107.) The Engineer's Report established two zones assessed at different rates to account for these differences. (AR00034–35.) As the Management Plan explains, the two zones receive a different level of services and benefits, and property owners therefore are assessed in proportion to that level. Thus, (i) Zone Two receives more frequent cleaning and graffiti abatement services and pays an assessment representing 100 percent of the special benefit received, while (ii) Zone One properties, characterized by less pedestrian activity, are assessed less for less frequent cleaning services. (AR00034–35.)

Each of the DCBID's Services is designed to "meet the needs of the mix of office, retail, cultural, religious, parking[,] publicly-owned transit, publicly-owned library, publicly-owned park, publicly-owned office, and residential and mixed-use residential parcels that make up the District and provide special benefit to each of the assessed parcels." (AR00042.) The Engineer's Report explains the benefits of the Clean and Safe Services: "Residential and mixed-use residential parcels benefit from District programs that provide an enhanced sense of safety, cleanliness and a positive user experience which in turn enhances the business climate and improves the business offering attracts new residents, businesses and District investments." (AR00098–99.) For the Economic Development/Marketing Services, the Engineer's Report found: "Residential and mixed-use residential parcels benefit from District programs that provide an increased awareness of District amenities such as retail and transit options which in turn enhances the business climate and improves

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the business offering and attracts new residents, businesses and District investment." (AR00100.)

The Engineer's Report also evaluates, quantifies, and separates general benefits arising from DCBID Services to (1) parcels within the DCBID, (2) those without, and (3) the public at large. (AR00112.) The "public at large" includes non-property owners who benefit from the Services, as visitors and passersby, for example. (AR00114.) The Engineer's Report concluded that each assessed parcel will specially benefit from cleaner and safer public rights-of-way, and thus 100 percent of the benefits conferred on these parcels are "distinct and special in nature" and that the Services provide no general benefit to parcels in the District boundaries. (AR00112.) The Engineer's Report concluded the Services could have some "spillover benefit" to 13 parcels outside the DCBID and every other BID (there more than 50 BIDs in the City). (AR00112–113.) It assigned these parcels a relative benefit factor of 0.50 for Economic Development/Marketing and 0.25 for Clean and Safe Services, calculated as 0.12 percent of the total general services budget and having a value of $6,418.95. (AR00114.) Similarly, the Engineer's Report found some general benefit from Clean and Safe Services in that they may allow the general public to "appreciate the enhanced level of maintenance and security as [they] pass through the Downtown Center PBID." (AR00114.) Using similar methodology, the Engineer's Report allocated $57,897.16 of the cost of the Services as general benefit to the public at large. (AR00114–115.)

The City Council approved the Engineer's Report and the Management District Plan. (AR00160; AR00255.)

D. Property Owners Overwhelmingly Approve the Assessment

The City mailed a notice of a public hearing on the proposed renewal of the DCBID and its assessment to all District property owners. (AR000271.) The notice stated ballots would be tabulated at the close of the public hearing, and would be weighted according to the proportional financial obligation of each affected property (as Proposition 218 requires). (*Ibid.*) The notice included a summary of the Management District Plan, "which includes the assessment formula, the total amount of the proposed assessment chargeable to the entire District, the duration of the payments, the reason for the assessment, the basis upon which the amount of the proposed assessment was calculated, and the amount chargeable to each parcel … ." (*Ibid.*; AR00275–292.) The notice also

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includes a link to the complete Management District Plan and the Engineer's Report. (AR00275.) This, too, is in compliance with Proposition 218. (Cal. Const., art. XIII D, § 4, subd. (c).)

Pursuant to Streets & Highways Code section 36623, City Council held a June 7, 2018 public hearing to offer all interested persons opportunity to "present written or oral testimony" and to "consider all objections or protests to the proposed assessment." (AR00161, AR00255.) Because DCBID is well established and its services are broadly valued, **no** written protests were submitted at the hearing. (AR00168.) After the public hearing, the City Clerk tabulated the ballots. (AR00162.) There are 2,865 parcels owned by 1,710 stakeholders in the proposed District, with one weighted vote available per assessed parcel. (AR00161.) Of these, 243 unweighted ballots were in support and 98 ballots were against. (AR00168.) When weighted, 94.17% voted in favor of the assessment and only a mere 5.83% voted against. (*Ibid.*) This is an extraordinary level of public support for what property owners experience as a supplement property tax (but which is technically an assessment) and reflects broad support for DCBID's Services. Had a majority of the weighted vote opposed renewal of the District's assessment, the Council would have been obliged to reject it. (Cal. Const., art. XIII D, § 4, subd. (e).)

On June 13, 2017, the City Council adopted Ordinance No. 185006 approving the District's assessment for 10 more years. (AR00255–256.)

III. STANDARD OF REVIEW

Petitioners seek mandamus review of the City's legislative action to levy the assessment. (Petition for Preemptory Writ of Mandate and Complaint for Declaratory and Injunctive Relief ("Pet."), pp. 21–22.) The levy of an assessment is legislation. (*Dawson v. Town of Los Altos Hills* (1976) 16 Cal.3d 676, 683, disapproved on other grounds by *Silicon Valle, supra,* 44 Cal.4th 431 ["the establishment of a special assessment district takes place as a result of a peculiarly legislative process grounded in the taxing power of the sovereign"].) Judicial review of such legislative action lies under Code of Civil Procedure section 1085. (*Western States Petroleum Assn. v. Superior Court* (1995) 9 Cal.4th 571–576.) (*Western States*).)

Challengers initially "bear[] the burden of proof to establish a prima facie case showing that [a] fee is invalid." (*California Farm Bureau Federation v. State Water Resources Control Bd.* (2011)

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51 Cal. 4th 421, 436 [construing Proposition 13]; see also *California Building Industry Association v. State Water Resources Control Bd.* (2015) 235 Cal.App.4th 1430, 1451 [same].) *Morgan v. Imperial Irrigation Dist.* (2014) 223 Cal.App.4th 892, 913 (*Morgan*) confirms this rule in the Proposition 218 context, holding that it is not "sufficient for [a party raising a Proposition 218 challenge] to merely claim" a fee or assessment is illegal, they must specify how.

If Petitioners make a prima facie case, this Court employs independent review of the administrative record to determine whether the assessment complies with Proposition 218. (*Silicon Valley*, *supra*, 44 Cal.4th at p. 444.) But even that is not de novo; the Court's analysis begins with a presumption that the City Council's findings are correct. (*Fukuda v. City of Angels* (1999) 20 Cal.4th 805, 817.) The City and DCBID then bear the burden to prove the assessment is lawful on the administrative record.

And, of course, burdens of proof are limited to factual issues. The requirements of Proposition 218 are questions of law to be addressed by this Court, with the parties on a level playing field. (*California Farm Bureau Federation v. State Water Resources Control Bd.*, *supra*, 51 Cal.4th at pp. 436–437.) As *Western States* confines judicial review to the administrative record, there are few (if any) disputed facts. Rather the parties contest the legal significance of an undisputed record.

IV. ARGUMENT

Under Proposition 218, "[o]nly special benefits are assessable, and an agency shall separate the general benefits from the special benefits conferred on a parcel." (Cal. Const., art. XIII D, § 4, subd. (a).) A "special benefit" is a "particular and distinct benefit over and above general benefits conferred on real property located in the district or to the public at large." (Art. XIII D, § 2, subd. (i).) Streets and Highways Code section 36615.5 clarifies that special benefits include "incidental or collateral effects that arise from the improvements, maintenance, or activities of property-based districts even if those incidental or collateral effects benefit property or persons not assessed." "'General benefit' means, for purposes of a property-based district, any benefit that is not a 'special benefit' as defined in Section 36615.5." (*Ibid.*)

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A. The Engineer's Report Properly Identified Special Benefits

1. *Dahms* Forecloses Petitioners' Challenge of DCBID's Special Benefits

Petitioners argue the DCBID confers no special benefits on property owners and that all benefits are general and not subject to assessment under California Constitution article XIII D, section 4, subdivision (a). They claim the Clean and Safe Services are merely "general economic and quality-of-life enhancements" (Petitioners' Opening Brief ("POB") at p. 15); the Economic Development/Marketing Services "are clearly intended more for the public at large than they are for specific parcels" (POB at p. 16); and "because there are general benefits stemming from DCBID's programs, the management service funds should not be sourced completely from the special assessments" (POB at p. 18). The argument fails to persuade, not least because the affected property owners themselves voted by a large margin to express a contrary view, as did the City Council. In any event, the claim is foreclosed by *Dahms*.

Dahms upheld assessment funding of services substantially the same as DCBID provides. (*Id.* at p. 722.) There, an opponent challenged a BID assessment funding of (i) security; (ii) streetscape maintenance (i.e., street sweeping, gutter cleaning, and graffiti removal); and (iii) marketing, promotion, and special events. (*Id.* at p. 713.) All services were supplemental to the general services provided by the City of Pomona. () The engineer's report apportioned the assessment on properties' street frontage, building size, and lot size. (*Ibid.*)

Like Petitioners here, Dahms argued Pomona had failed to separate general from special benefits. (*Id.* at p. 721.) The Second District disagreed, finding "[t]he district provides security (and other) services *directly* to *all* of the assessed parcels, and it does not impose identical assessments throughout the district but rather uses three parcel-specific factors to calculate an individualized assessment of each assessed parcel," in compliance with Proposition 218. (*Id.* at p. 724 [emphasis in original].) Citing *Silicon Valley*, the Court of Appeal explained:

> They are all services over and above those already provided by the City within the boundaries of the PBID. And they are particular and distinct benefits to be provided only to the properties within the PBID, not to the public at large—they

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> "affect the assessed property in a way that is particular and distinct from [their] effect on other parcels and that real property in general and the public at large do not share." (*SVTA, supra*, 44 Cal.4th at p. 452 ...) The services provided by the PBID are therefore special benefits, and the engineer's report separates them from general benefits (i.e., it separates them from benefits already provided by the City within the PBID, or provided to the public at large).

(*Id.* at p. 722.)

The Court of Appeal also expressly rejected Dahms' argument that if the BID specially benefits property owners, but these special benefits produce general benefits, then the value of the general benefits must be deducted from the assessment. (*Id.* at p. 723.) This was an error because article XIII D, section 4, subdivision (a) only requires that an assessment may not exceed the reasonable cost of special benefits. (*Ibid.*) *Dahms* found the BID's security, street maintenance, and marketing services all confer special benefits on assessed properties in a way that is particular and distinct from their effect on other parcels and the public at large. (*Ibid.*) The assessment for each parcel was the reasonable cost of the proportional special benefit conferred on it. (*Id.* at p. 724.) Thus, Proposition 218 did not require deduction for general benefits:

> [A]ccording to Dahms' argument, if the reasonable cost of providing enhanced security services for the parcels in the PBID were $100,000, and those enhanced security services produced general benefits (e.g., increased property values or increased safety for the general public) valued at $70,000, then the $70,000 value of the general benefits would have to be deducted from the $100,000 cost of providing the special benefits (i.e., the enhanced security services for the parcels in the PBID), and only the remaining $30,000 could be assessed.
>
> This argument fails because the text of article XIII D does not support it. ... The provision is unambiguous, and nothing in article XIII D says or implies that if the special benefits that are conferred also produce general benefits, then the value of those general benefits must be deducted from the reasonable cost of providing the

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> special benefits before the assessments are calculated. Rather, the only cap the provision places on the assessment is that it may not exceed the reasonable cost of the proportional special benefit conferred on that parcel.

(*Id.* at p. 723.)

Finally, *Dahms* rejected the assertion that its conclusion conflicted with *Silicon Valley*. (*Id.* at p. 724.) In *Silicon Valley*, an 800-square-mile district of approximately 314,000 parcels was assessed to fund acquisition and maintenance of open space for recreation, conservation, and watersheds protection. (*Id.* at p. 724; *Silicon Valley*, *supra*, 44 Cal.4th at p. 439.) The engineer's report observed seven putative special benefits which the Supreme Court concluded were to be general benefits on the facts there and not apportioned in light of the proportionate benefit to each property — which could not be determined given that no open spaces to be acquired were identified. (*Ibid; Silicon Valley*, *supra*, 44 Cal.4th at pp. 455–456.) *Dahms* concluded that, unlike the *Silicon Valley* district, Pomona's BID services did confer special benefits on assessed parcels:

> The PBID is nothing like the district at issue in *SVTA*. In *SVTA*, all seven of the putative special benefits were merely the alleged *effects* of the two services directly funded by the assessments, namely, the acquisition and maintenance of open space land. In contrast, the special benefits conferred by the PBID are not mere *effects* of the services funded by the assessments. Rather, the PBID's services themselves *constitute* special benefits to all of the assessed parcels. The assessments directly fund security services, streetscape maintenance services, and marketing and promotion services for the assessed parcels. *SVTA* in no way suggests that those services are not special benefits.

(*Id.* at p. 725 (emphasis in original).)

So, too, here. As in *Dahms*, DCBID's Services are provided directly to assessed parcels: "None of the surrounding parcels will directly receive any of the PBID activities" (AR00112) and "[i]f there are any public benefits, they are incidental and collateral to providing special benefits to the assessed parcels" (AR00114). (Cf. Gov. Code, § 53757 [incidental effect of a direct benefit to others does not detract from direct benefit under Prop. 26].) All public Services have collateral

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consequences — water supply promotes public health. But that does not alter the special benefit to the property directly serviced. It is a matter of degree and the Engineer's Report here properly concluded these services specially benefit the 65 blocks in which they are provided. Also as in *Dahms*, DCBID does not impose identical assessments throughout the District (as was true in *Silicon Valley*), recognizing that "each parcel's proportionate special benefit from the District programs is to relate to each parcel's building square footage to every other parcel's building square footage, and/or when applicable, land square footage, plus applicable, assessable parking square footage for each parcel." (AR00107.)

Silently ignoring *Dahms*, Petitioners contend the special benefits summarized in DCBID's Engineer's Report are general benefits, like those in *Silicon Valley*; because the public may also indirectly benefit from the Services, they can confer no special benefit — it's all or nothing in their view. (POB at pp. 15–17.)

Dahms holds otherwise. (*Dahms*, *supra*, 174 Cal.App.4th at p. 711.) Rather, Proposition 218 requires "that assessments must be limited to the reasonable cost of providing special benefits; any additional costs of providing additional general benefits cannot be included in the amounts assessed." (*Id.* at p. 722.) "The record [in *Dahms*] amply demonstrates that the City complied with that requirement" because the PBID's services are "over and above those already provided by [Pomona] within the boundaries of the [BID]." (*Ibid.*) Even though the public may benefit indirectly from the PBID's services, those services are "particular and distinct benefits to be provided only to the properties within the PBID, not to the public at large." (*Ibid.*)

Thus, DCBID's Engineer's Report adequately identifies and details special benefits of Services provided directly to the assessed properties:

- The Clean and Safe Programs allows residential and mixed-use parcels in the DCBID an enhanced sense of safety, cleanliness, reduced crime, and a positive user experience, which attracts new residents, businesses, and District investment. (AR00097–98.)
- The Economic Development / Marketing services allow residential and mixed-use parcels an increased awareness of District amenities such as retail and transit options, which, too, enhance the business climate and attract new residents, businesses, and District

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investment. (AR00099–101.) These offerings include special events, property owner communications and surveys, and economic studies and residential development programs to directly benefit property owners and District residents — those property owners and their tenants. (*Ibid.*)

- The Management / City Fees / Reserve Services oversee provision of the Services, and to receive service calls from property owners. (AR00101). Such a well-managed and responsive District provides higher quality and more efficient programs, and the services result in increased commercial activity and thus more commerce and satisfied guests. In any event, these Services are a necessary aspect of the other Services, which cannot be effectively provided without them.

Indeed, the decision of nearly all assessees and the City Council to fund the Services is easily understood. The residents of Petitioners' apartments are not trapped within their walls and obviously benefit from the safety, cleanliness, and offerings of the surrounding neighborhood. Indeed, low-income seniors may be more in need of supplemental security services than others and more benefited by unobstructed and clean sidewalks. Petitioners can be expected to benefit from a cleaner, safer neighborhood known as a positive place to live and do business, which results in better occupancy rates, lower insurance costs, lower property maintenance costs and the like. The Engineer's Report properly identified these benefits.

Petitioners' contention such benefits are only "potential" is unpersuasive. The proper inquiry is whether the special benefits are conferred on a parcel irrespective of whether the owner calls for service on a given day. All benefit from police even though all are not crime victims every day. So, too, the DCBID's purple-shirt supplemental safety patrol. The benefit is not merely prospective, but present and real. Indeed, Petitioners have often used the DCBID's services — by April 2018, DCBID completed 51 service calls to the Angelus Plaza properties, some in response to calls from tenants there and others initiated by DCBID staff. These include responses to maintenance requests, wellness checks, response to work orders, and service calls, such as responding to concerns of trespassers on the properties. (Declaration of Suzanne Holley ISO Responsive Trial Brief,

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¶ 4.)[2] Given the low-income senior population Petitioners serve, it is unsurprising their tenants would avail themselves of the social services DCBID offers at no additional charge. Petitioners simply want a free ride on services funded by others. This, Proposition 218 forbids. (Cal. Const., Art. XIII D, § 4, subd. (a); *Dahms, supra*, 174 Cal.App.4th at p. 722, fn.12.)

The Venice Beach Business Improvement District (VBID) which was also challenged in this Court (*Marlene Okulick, et al. v. City of Los Angeles, et al.* (Los Angeles Superior Court, Case No. BS 166558)) provides analogous support. (Request for Judicial Notice ("RJN"), Exh. 1.) VBID also provides a Clean and Safe Program, District Identity and Special Projects, and Administration and Management. That community, too, voted to self-assess to fund services just like those in issue here.

In short, *Dahms* forecloses Petitioners' claim. Like the BID in *Dahms*, DCBID's Services are "either currently not provided or are above and beyond what the City of Los Angeles provides." (AR00093.) The Services "are not provided outside of the District because of the unique nature of these services focusing on the particular needs of each assessed property within the District." (AR00103.) Unlike *Silicon Valley*, the special benefit of the City's services are not mere effects or a general social program, but are provided directly to and solely for the benefit of the assessed properties and not elsewhere. Thus, the Services are properly found to confer special benefits.

2. The Engineer's Report Appropriately Relied on the Streets & Highways Code in Identifying Special Benefits

Petitioners challenge the Engineer's Report's reliance on recent amendments to the California Streets and Highways Code, claiming that "rather than relying on the California Supreme Court's constitutional interpretation of what constitutes a special benefit, DCBID relies on recent updates to the California Streets and Highways Code which contradicts the Supreme Court's findings" in *Silicon Valley*. (POB at p. 13.) First, our Supreme Court has welcomed legislative assistance in clarifying the requirements of Proposition 218, an initiative constitutional amendment which did not receive professional drafting or the services of a Committee on third Reading. (*Greene v. Marin*

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[2] While extra-record evidence is generally foreclosed in this type of mandate proceeding under *Western States*, narrow exceptions are permitted for post-hoc evidence not inconsistent with the administrative record. (*Outfitter Properties, LLC v. Wildlife Conservation Board* (2012) 207 Cal.App.4th 237.) DCBID Management offers this evidence for that limited purpose.

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County Flood Control and Water Conser. Dist. (2010) 49 Cal. 4th 277, 287 (*Greene*) [citing Prop. 218 Implementation Act to construe article XIII D]; *Pajaro Valley Water Management Agency v. AmRhein* (2007) 150 Cal.App.4th 1364, 1378, fn. 10 [commenting on Proposition 218's "questionable draftsmanship"].)

In 2014, the Legislature freshly updated the BID Law to provide guidance as to Proposition 218's requirements. Streets and Highways Code section 36615.5 clarified that a special benefit "includes incidental or collateral effects that arise from the improvements, maintenance, or activities of property-based districts even if those incidental or collateral effects benefit property or persons not assessed." (Sts. & Hy. Code, § 36615.5; cf. Gov. Code, § 53758 [similar provision as to Prop. 26].) "The mere fact that special benefits produce incidental or collateral effects that benefit property or persons not assessed does not convert any portion of those special benefits or their incidental or collateral effects into general benefits." (Sts. & Hy. Code, § 36601, subd. (h)(2).) The "activities" that may be assessed in a property-based BID[3] include services to provide "security, sanitation, graffiti removal, street and sidewalk cleaning, and other municipal services supplemental to those normally provided by the municipality." (Sts. & Hy. Code, § 36606, subd. (e).)

The statute expresses the requirements of Proposition 218 articulated in *Dahms*. Petitioners ignore *Dahms* (citing it not once) and find fault with the Engineer's Report and the Legislature for doing otherwise. Its argument necessarily fails. *Dahms* interprets Proposition 218 in light of *Silicon Valley*, concluding: "The provision [Cal. Const., art. XIII D, § 4, subd. (a)] is unambiguous, and nothing in article XIII D says or implies that if the special benefits that are conferred also produce general benefits, then the value of those general benefits must be deducted from the reasonable cost of providing the special benefits before the assessments are calculated." (*Dahms*, *supra*, 174 Cal.App.4th at p. 723.) Thus, the Legislature merely ratified *Dahms* by clarifying in the BID Law that special benefits may confer incidental or collateral effects on property or persons not assessed,

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[3] BIDs may be property based — funded by assessments collected on the property tax roll from property owners — or non-property based, typically collected from businesses by a surcharge on business license taxes. Proposition 218 applies only to property assessments. (*Howard Jarvis Taxpayers Ass'n. v. City of San Diego* (2004) 120 Cal.App.4th 374, 394.) Accordingly, all the authorities and comparable BIDs discussed here are property based business improvement districts or PBIDs.

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and those special benefits may include security and maintenance services funded through a BID assessment.

Section 36601, subdivision (h) of the Streets and Highways Code states the 2014 amendments to the PBID Law were "intended to provide the Legislature's guidance with regard to this act, its interaction with the provisions of Article XIII D of the Constitution, and the determination of special benefits in property-based districts." Thus, the Legislature has made clear that special benefits may confer incidental or collateral effects on property or persons not assessed, and those special benefits may include security or cleanup services funded through the BID assessment. Their clarification of the meaning of article XIII D is proper.

Petitioners find no error in the Engineer's Report's citation of statutes codifying *Dahms*, which controls here with or without that codification.

B. The Engineer's Report Properly Distinguishes General from Special Benefits

The Engineer's Report in *Silicon Valley* measured general benefit "only as the benefit conferred on 'individuals who are *not* residents, employees, customers or property owners' (italics added) in the assessment district." (*Silicon Valley*, *supra*, 44 Cal.4th at p. 454–455.) The court held "general benefits are not restricted to benefits conferred only on persons and property outside the assessment district, but can include benefits both 'conferred on real property located *in the district* or to the public at large." (*Id.* at p. 455.) "By its plain language, [Proposition 218] does not permit [respondents] to choose one segment of the 'public at large' to measure general benefit." (*Ibid.*) In so holding, the Court did not conclude that an Engineer's Report is constitutionally mandated to find a general benefit above zero, but only that an Engineer's Report is required to consider the general benefits to "all members of the public." (*Ibid.*) Indeed, the Court of Appeal has twice upheld Engineer's Report finding no general benefit from particular services. (*Town of Tiburon v. Bonander* (2009) 180 Cal.App.4th 1057, 1079–1080 (*Bonander*) [no general benefit from utility undergrounding to enhance Bay views and to promote reliable utility service]; *City of Saratoga v. Hinz* (*Hinz*) (2004) 115 Cal.App.4th 1202, 1224–1225 [no general benefit from project to convert cul-de-sac into through street even though general public might use it].)

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Here, the Engineer's Report evaluates "the level of general benefits that (1) parcels inside the Downtown Center BID, (2) parcels outside the PBID, and (3) the public at large may receive." (AR00112.) It defines "public at large" as "those people that are either in the PBID boundary and not specifically benefited from the activities, or people outside of the PBID boundary that may benefit from the PBID activities." (AR00114.) Whereas the Engineer's Report found a $6,418.95 general benefit for parcels outside the PBID and a $57,897.16 general benefit for the public at large, the Engineer's Report concluded "100% of the benefits conferred on [parcels in DCBID] are distinct and special in nature and that 0% of the PBID activities provide a general benefit to parcels in the District boundary." (AR00112–115.)

Unlike the engineer's report in *Silicon Valley*, the Engineer's Report here evaluates the special and general benefits on "all members of the public." The three categories identified in the Engineer's Report incorporate all the relevant stakeholders (indeed, logically, they include the whole world). Petitioners may disagree with the Engineer, but the law does not mandate a specific outcome, only a specific process. Assessment levies are still legislation — choices among multiple lawful answers to a given question. (Cf. *San Diego County Water Authority v. Metropolitan Water District of Southern California* (2017) 12 Cal.App.5th 1124, 1149 [courts do not choose among competing rate-making methodologies, but evaluate legislative choices for the requisite level of record support (applying Prop. 26)].) The Engineer's Report satisfied the requirement to consider the general benefits on all members of the public, within and without the district.

Petitioners cite the Engineer's Report's technical definition of "public at large" and note that it does not match the definition of "public at large" in *Silicon Valley*. (POB at p. 19.) They allege the definition of "public at large" "is much broader and is not limited to any particular person." (*Ibid.*) Petitioners therefore conclude "the District's assessments will not be properly limited to special benefits." (POB at pp. 19–20.)

Petitioners fault the Engineer here for being too encompassing in his search for general benefit. Perhaps one can be too thin or too rich, but the effort to limit assessments to special benefit alone cannot be too thorough. *Silicon Valley* defined "public at large" to require that "all members of the public" be considered in evaluating general benefits. (*Silicon Valley*, *supra*, 44 Cal.4th at p. 455.)

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DCBID's Engineer's Report **did** consider all members of the public, including those inside and outside the district, as well as those receiving and not receiving special benefits. (AR00112–115.) The fact that the Engineer's Report defined "public at large" so as to facilitate and organize its analysis does not detract from the validity of its analysis under both *Silicon Valley* and article XIII, section 2, subdivision (i) of the California Constitution. Moreover, the two formulae speak to the same concept — what benefits do the assessment-funded Services provide to those within and without the District which ought not to be funded by those who receive special benefit. Petitioners split hairs and fail to persuade.

C. The Engineer's Report Properly Considered Specific and General Benefits to Residential Properties

Petitioners claim they are subject to rent restrictions under a regulatory agreement with the City. (POB at p. 20.) Petitioners allege that because of these restrictions, "RHF's properties do not benefit in the same manner or amount as commercial properties, as well as other residential properties, which can and most certainly do lease space at market rents." (POB at p. 20.)[4] As a result, they believe the Engineer's Report should have analyzed their special benefits differently. (*Ibid.*) But how does the rent charged for a property constrain the analysis of special benefit to that property from supplemental municipal services? That Petitioners may not be able to monetize that benefit does not disprove its existence.

"Under Proposition 218, only special benefits are assessable. (Cal. Const., art. XIIID, § 4, subd. (a); *Silicon Valley*, *supra*, 44 Cal.4th at p. 455 ["the agency can impose an assessment based only on the special benefits"].) DCBID is not required to account for Petitioners' unique inability to raise revenue. Petitioners' claims are not based on the impacts to a class, but on the profitability of two specific apartment buildings, Angelus Plaza and Angelus Plaza North (POB at p. 20.) Petitioners' profit margins are not the basis for the assessment; Petitioners' special benefits are. Indeed, Petitioners specially plead for a social subsidy — or a leveling down of publicly funded

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[4] It is important to note that Petitioners do not assert DCBID impermissibly assessed parcels that are zoned exclusively for residential uses, which is prohibited under Streets and Highways Code section 36632, subdivision (c).

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services to the level they prefer. These are policy arguments better addressed to the assessed property owners and the City Council than to this Court. Moreover, it is curious that Petitioners have the wherewithal to litigate, but claim poverty when it comes to funding public services of which their tenants are frequent users.

In any event, Petitioners do not identify record evidence that they, as a purveyor of residential living space for the elderly, will benefit any less from the Services. Like every other residential building in the DCBID, Petitioners benefit from the "safety, cleanliness, and positive user experience" DCBID's Services provide. (AR00098–99.) Similarly, Petitioners benefit from "increased awareness of District amenities such as retail and transit options." (AR00100.) As noted above, Petitioners can benefit from reduced turn-over in their units, lower property maintenance costs, and lower insurance rates. Furthermore, Petitioners' elderly and low-income residents, likely more than most members of the population, benefit from living in a safe and clean neighborhood with nearby retail and public transit options. Petitioners offer no reason why the increased benefits to their residents would not attract new residents to their property, maintaining a high occupancy rate. They should direct their policy arguments elsewhere.

D. The Engineer's Report's Quantification Method is Based on Credible Record Evidence

Petitioners argue the Engineer's Report "fails to rely on 'solid, credible evidence,' in its quantification analysis." (POB at p. 21.) Petitioners specifically take issue with the fact that "100% of the benefits conferred on these parcels are distinct and special in nature and that 0% of the PBID activities provide a general benefit to parcels in the District boundary." (AR00112–115.) As noted above, both *Bonander* and *Hinz* upheld zero-general benefit assessments. Moreover, the Court of Appeal has appropriately concluded that Proposition 218 does not require the data used in rate-making to be "perfect." (*Morgan v. Imperial Irrigation District, supra,* 223 Cal.App.4th at pp. 900, 918–919 [applying art. XIII D, § 6].) Perfection is not available in this life.

Petitioners allege the Engineer's Report failed to properly separate and quantify the special benefits from the general benefits, citing *Beutz v. County of Riverside* (*Beutz*) (2010) 184 Cal.App.4th 1516, and *Golden Hill Neighborhood Assn., Inc. v. City of San Diego* (*Golden Hill*)

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(2011) 199 Cal.App.4th 416. (POB at p. 21.) Neither assists them.

In *Beutz*, the court addressed a special assessment district consisting of residential properties to pay the cost of maintaining three closed public parks and one new park in the district. (*Beutz*, *supra*, 184 Cal.App.4th at p. 1525.) The court held that landscaping for existing and new parks open to the general public does not provide special benefit directly to nearby assessed properties. (*Id.* at p. 1527.) Because the general public had just as much access to those park services as the assessed properties, "[u]nlike *Dahms*, this is not a case in which services specifically intended for assessed parcels concomitantly confer collateral general benefits to surrounding properties...." (*Id.* at p. 1537.) Thus, the record in *Beutz* indicated that the landscaping provided no special benefits. Additionally, the report was completely missing a quantification of the general public's benefit in relation to a quantification of the residential property owners' benefit. (*Id.* at 1523.) This was important since it was by no means clear that residents would use the parks more intensively than persons from other communities. (*Ibid.*)

Similarly, *Golden Hill* invalidated an assessment district to fund such supplemental municipal services such as trash removal and landscaping services because the supporting engineer's report did not separate and quantify the general and special benefits. (*Golden Hill*, *supra*, 199 Cal.App.4th at pp. 438-439.) The record did not demonstrate that all of the services would be provided directly to the assessed properties, but rather a number of the services (e.g., trail beautification, public lighting, etc.) would be provided generally to the entire area. (*Ibid.*) *Golden Hill* invalidated an assessment because the record did not disclose the basis on which the City had assigned special benefit to its own parcels, thus conferring decisive votes on those parcels without record support. No similar argument can be made here. Nothing in *Golden Hill* can be read as a flat conclusion that supplemental services like those here do not provide special benefit, or that the special benefit cannot be distinguished — as the Engineer's Report here does. Indeed, that Court provided a helpful footnote to explain how that distinction might be made — showing how to do well what that report did not at all. (*Id.* at p. 438, fn. 18.) The Engineer's Report in issue here provides the analysis found lacking in *Golden Hill*.

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Beutz and *Golden Hill* do not aid Petitioners. Services for park maintenance do not necessarily benefit assessed property owners more than the surrounding communities (as in *Beutz*), nor are services such as trail beautification and lighting in common areas beneficial to all (as in *Golden Hill*). Unlike *Beutz*, the DCBID's services of security and cleaning are provided to the assessed parcels, and the special benefits were supported. Unlike *Golden Hill*, the special services are provided to the assessed property owners and not the general public. As in *Dahms,* and unlike *Beutz* and *Golden Hill*, the DCBID's Services are provided directly to the assessed properties, not the public at large

Petitioners also claim the Engineer's Report's "definition of 'special benefits' runs contrary to the *Silicon Valley* ruling that derivative and indirect benefits do not constitute special benefits." (POB at p. 24.) To persuade of this point, Petitioners must show that the Services here, provided directly and only to a 65-block area (AR00026), are comparable to the undetermined open space acquisitions in a huge swath of Silicon Valley at issue there. They cannot, not least because *Dahms* forecloses the claim.

Petitioners also claim "the report's special benefit quantification methodology does not differentiate between the different uses of different parcels of land." (POB at p. 21.) Differentiating based on use is not a requirement under the law. (*Dahms*, *supra*, 174 Cal.App.4th at p. 713 [quantification methodology based on street frontage, building size, and lot size, not use].) The Constitution requires assessments to be levied in proportion to the special benefit each parcel receives: "The proportionate special benefit derived by each identified parcel shall be determined in relationship to the entirety of the capital cost of a public improvement, the maintenance and operation expenses of a public improvement, or the cost of the property related service being provided." (Art. XIIID, § 4, subd. (a).) And no assessment may be levied that exceeds the proportional special benefit to a parcel. (*Ibid.*) Thus, different quantification methodologies are only appropriate where the different uses' special benefits are not shared in equal proportion.

The Engineer's Report accounts for differences in levels of Services by distinguishing two zones based on service frequency and pedestrian traffic levels. (AR00105.) *Golden Hill* itself suggested traffic levels might be a useful rubric. (*Golden Hill*, *supra*, 199 Cal.App.4th at p. 439, fn.

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18.) Further, the different uses were not disregarded here. The Engineer's Report clearly took the different uses into account in formulating its methodology. "Each of the services provided by the District are designed to meet the needs of the mix of office, retail, cultural, religious, parking publicly-owned transit, publicly-owned library, publicly-owned park, publicly-owned office, and residential and mixed-use residential parcels that make up the District and provide special benefit to each of the assessed parcels." (AR00042.) The quantification methodology is ultimately based on the special benefits shared in equal proportion between the 10 different uses evaluated. In any event, there is more than one way to lawfully apportion special benefit. (*San Diego County Water Authority v. Metropolitan Water District of Southern California, supra*, 2 Cal.App.5th at p. 1149 [courts do not choose among competing methodologies].) That the Constitution defers this task to a licensed professional engineer demonstrates the point.

Lastly, Petitioners allege "the Report ultimately fails to base its estimate on any solid, credible evidence." But Petitioners present "no expert testimony or other authority showing the Respondents' allocation methods were illegal or otherwise improper." (*Moore v. City of Lemon Grove* (2015) 237 Cal.App.4th 363, 375.) Here, the Registered Civil Engineer who drafted the Engineer's Report relied upon his 50 years of "professional experience and the results of other studies" to conclude the relative benefit factor to the general public was less than 1.0. (AR00114.) The Engineer is in the best position to provide an estimate. (*Moore v. City of Lemon Grove, supra,* 237 Cal.App.4th at p. 375 ["cost allocation methods used by governments present a subject beyond the trial court's and our common experience and knowledge"].) Absent a precise legal standard or scientific method to determine the relative benefit factors, basing such an estimate on industry standards and common practice provides the solid, credible evidence required under the law. In any event, Petitioners finding fault with the Engineer's data is comparable to the unsuccessful appellants in *Morgan*. The Court of Appeal found that the data relied in rate-making under Proposition 218 need not be perfect. (*Morgan, supra*, 223 Cal.App.4th at pp. 900, 918–919.)

E. Petitioners Failed to Exhaust Administrative Remedies

Proposition 218 provides an administrative remedy by imposing specific procedural and substantive requirements on local governments which levy new or increased assessments —

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including hearings and a mailed-ballot "protest proceeding" by which property owners may object to or approve an assessment to fund improvements to benefit their properties. (Cal. Const., art. XIII D, § 4, subds. (c)–(e); *Greene*, *supra*, 49 Cal. 4th at pp. 285–286 [discussing article XIII D, §§ 4 & 6].) The exhaustion doctrine applies to challenges to assessments under Proposition 218. (*Wallich's Ranch v. Kern County Pest Control District* (2001) 87 Cal.App.4th 878 [challengers could not question citrus vector assessment without first objecting at budget hearing] (*Wallich's Ranch*).) Compliance with the administrative procedures in "Government Code section 53753, which was 'designed to clarify the implementation of Proposition 218'" are explicitly required under the BID Law. (*Golden Hill*, *supra*, 199 Cal.App.4th at p. 432; Sts. & Hy. Code, § 36623, subd. (a).)

This issue is pending before the California Supreme Court on review of a contrary decision of the Fourth District in a sewer fee case. (*Plantier v. Ramona Municipal Water Dist.* (2017) 12 Cal.App.5th 856, review granted Sept. 13, 2017 (*Ramona*).) Under *Auto Equity Sales, Inc. v. Superior Court of Santa Clara County* (1962) 57 Cal.2d 450, 455–456 (*Auto Equity Sales*), *Wallich's Ranch* controls here both because *Ramona* is distinguishable as arising under article XIII D, section 6 (governing property related fees) rather than section 4 (governing assessments), which applies here. Moreover, *Wallich's Ranch* is a final decision binding here under *Auto Equity Sales*, while the grant of review renders *Ramona* merely persuasive. (Cal. Rules of Court, rule 8.1115(e)(1) ["Pending review and filing of the Supreme Court's opinion, unless otherwise ordered by the Supreme Court under (3), a published opinion of a Court of Appeal in the matter has no binding or precedent effect, and may be cited for potentially persuasive value only."].)

Under the exhaustion doctrine, the decision-making body "is entitled to learn the contentions of interested parties before litigation is instituted." (*Napa Citizens for Honest Government v. Napa County Bd. of Supervisors* (2001) 91 Cal.App.4th 342, 384 [exhaustion under CEQA].) Generalized objections at a public hearing do not suffice — challengers must raise them specifically. (*Coalition for Student Action v. City of Fullerton* (1984) 153 Cal.App.3d 1194, 1197; *California Native Plant Society v. City of Rancho Cordova* (2009) 172 Cal.App.4th 603, 615–616 [hearing participants not held to standards of lawyers in court, but must identify what facts are contested].) Exhaustion requires full presentation to the agency of all issues later to be litigated and the essential facts on

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which they rest. (*City of San Jose v. Operating Engineers Local Union No. 3* (2010) 49 Cal.4th 597, 609 [duty to exhaust PERB remedies before suing to enjoin strike].) The exhaustion doctrine remains jurisdictional — not a matter of judicial discretion. (*Roth v. City of Los Angeles* (1975) 53 Cal.App.3d 679, 687 [even constitutional challenges to assessment to abate nuisance barred as plaintiffs did not object at city council hearing].)

The District mailed notices to all the property owners, including the Petitioners, to inform them of the upcoming protest proceedings, as required by Government Code section 53753. (AR00255.) The notices discussed the "assessment formula, the total amount of the proposed assessment chargeable to the entire District, the duration of the payments, the reason for the assessment, the basis upon which the amount of the proposed assessment was calculated, and the amount chargeable to each parcel … ." (AR00271.) The District held a public hearing on June 7, 2018 to offer all interested persons opportunity to "present written or oral testimony" and to "consider all objections or protests to the proposed assessment." (AR00161, AR00255.) Petitioners had an opportunity to voice their opposition, but they neither filed a written protest nor submitted a speaker card to voice their concerns from the floor. (*Ibid.*) Accordingly, Petitioners cannot raise these issues for the first time at trial.

V. CONCLUSION

Petitioners would prefer less, and less costly, public services to assist them in managing rent-controlled apartments. Their policy preferences, however, are not Proposition 218's constitutional mandate. The assessment here withstands review because record evidence demonstrates the Engineer's Report reasonably identified special benefit accruing from DCBID's Services, apportioned the cost of those services among property owners by zone and by parcel characteristics, and distinguished general from special benefit. It did all our Constitution requires and survives review just as did the assessment in *Dahms*, on which it was tailored. This Court should deny any

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relief to Petitioners and provide declaratory relief to the City and DCBID Management Corporation that the assessment is lawful and may be enforced.

DATED: August 7, 2018

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PROOF OF SERVICE

Hill RHF Housing Partners v. City of Los Angeles, et al.
Los Angeles Superior Court Case No. BS 170127

I, the undersigned, declare:

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is 790 E. Colorado Blvd., Suite 850, Pasadena, CA 91101. On **August 7, 2018,** I served the document(s) described as: **RESPONDENT DOWNTOWN CENTER BUSINESS IMPROVEMENT DISTRICT MANAGEMENT CORPORATION'S RESPONSIVE TRIAL BRIEF** on the interested parties in this action by placing a true copy thereof enclosed in a sealed envelope addressed as follows:

SEE ATTACHED SERVICE LIST

☐ **BY FACSIMILE**: By transmitting via facsimile the document(s) listed above to the fax number(s) set forth above on this date.

☒ **BY E-MAIL OR ELECTRONIC TRANSMISSION**: Based on a court order or an agreement of the parties to accept service by e-mail or electronic transmission, I caused the documents to be sent to the persons at the e-mail addresses listed on the attached service list.

☐ **BY MAIL**: The envelope was mailed with postage thereon fully prepaid. I am readily familiar with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. postal service on that same day with postage thereon fully prepaid at Los Angeles, California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if the postal cancellation date or postage meter date is more than one day after service of deposit for mailing in affidavit.

☐ **OVERNIGHT DELIVERY**: By overnight delivery, I placed such document(s) listed above in a sealed envelopes, for deposit in the designated box or other facility regularly maintained by FEDERAL EXPRESS or GOLDEN STATE OVERNIGHT (GSO) for overnight delivery. I caused such envelopes to be delivered to the office of the addressees listed on the attached service list via overnight delivery pursuant to C.C.P. §1013(c), with delivery fees fully prepaid or provided for.

☐ **PERSONAL SERVICE**: I caused such envelopes to be delivered by hand to the addresses indicated on the attached service list.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on **August 7, 2018,** at Los Angeles, California.

Angelo McCabe

SERVICE LIST

Hill RHF Housing Partners v. City of Los Angeles, et al.
Los Angeles Superior Court Case No. BS 170127

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